

Notice of Allowability

Application No.

10/776,989

Examiner

Zachariah Lucas

Applicant(s)

SAUNDERS ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Response of September 19, 2006.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>10-12-06</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Claims 1-16 are pending in the application.
2. In the prior action, mailed on June 20, 2006, claims 1-16 were pending, with claims 1-4, 15, and 16 under consideration and rejected; and claims 5-14 withdrawn from consideration. In the Response filed on September 19, 2006, the Applicant amended claim 1.
3. Claims 1-4, 15, and 16 are allowed. Because generic claim 1 is found allowable, claims 5-14 are rejoined and allowed.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas J. Engellenner on October 12, 2006.

The application has been amended as follows:

The specification is amended to insert the phrase - - now U.S. Patent 6,699,968, - - on page 1, line 14 of the application, after the phrase " This application is a divisional of U.S. application no. 09/723,677, filed November 28, 2000, "

Claim 14 has been amended as follows"

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the term "Plasmodium falciparum" has been replaced with the term - - *Plasmodium falciparum*- -;

the term "Trypanosoma gondii" has been replaced with the term - - *Trypanosoma gondii*- -;

the term "Bordetella pertussis" has been replaced with the term - - *Bordetella pertussis*- -;

the term "Streptococcus pyogenes" has been replaced with the term - - *Streptococcus pyogenes* - -; and

the term "Staphylococcus aureus" has been replaced with the term - - *Staphylococcus aureus* - -.

The amendments are made to update the priority information, and to correct an informality (the lack of italicization) of terms in the claims.

Claim Rejections - 35 USC § 112

5. **(Prior Rejections- Withdraw)** In view of the amendments to the claims, the rejections of record under 35 U.S.C. 112 are withdrawn.

Double Patenting

6. **(Prior Rejection- Withdrawn)** Claims 1-4, 15, and 16 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, and 6 of U.S. Patent No. 6,699,968. In view of the terminal disclaimer of September 22, 2006, the rejection is withdrawn.

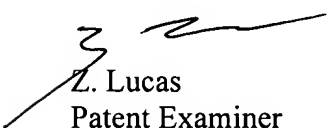
Conclusion

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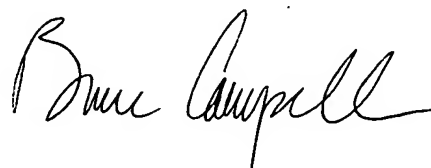
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Z. Lucas
Patent Examiner



BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600